

Halal Certification Guarantee for Food and Medicine Products (Human Rights Perspective)

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Abstract. The Guarantee of Halal certificates for food and medicinal products is a must and an obligation. This aims to provide protection for consumers as well as a human right based on the belief in the religion and the rights that must be obtained as citizens. The method used in this paper is descriptive qualitative with a case approach and statutory regulations. The result of this study shows that halal certificates have a very important role not only for consumers but also for business actors. It becomes the part of the health rights for the citizens themselves and for their families as stated in the DUHAM.

Keywords: Guaranteed Halal Products; Certificates; Human Rights

1. Introduction

Today, halal products are developing rapidly. Halal awareness is a movement born by the Indonesian people and from many communities worldwide, including Muslims and non-Muslims. For Muslims, consuming halal products is an important obligation wherever they live in accordance with the provisions of the al-Qur'an and Hadith. Non-Muslims believe that halal food products require strict, clean, and qualified ingredients [1]. So that the safety, cleanliness, and quality are guaranteed. In Asia, such as Malaysia and Indonesia, halal food products are developing very fast, which is also followed by developments in European countries. Some European retailers add fresh halal meat to their variety, and some producers export halal products to Muslim countries. Most of the halal products are distributed through the Netherlands to be sold in the halal market in Europe, the Middle East, and Africa. The Netherlands boasts its first halal goods store facility, which stimulates the development of halal supply chains worldwide [2].

However, there are still many food products in society that do not pay attention to the inclusion of the halal label, which is actually a violation of the rights of Muslim consumers. Besides, using borax, formaldehyde, preservatives, and clothing dyes used in foodstuffs can also negatively affect human health. In society, we often encounter a number of cases of violations related to producing goods and/or services, such as the case of leather shoes from pigs, meatballs made from pork, and many kinds of snacks sold on roadsides, at street vendors, and in the school that contains a dangerous chemical.

Therefore, to have a halal guarantee for a product, the product must first be certified to provide assurance of its halal status and comfort for consumers who consume it. In Indonesia, some laws and regulations specifically regulate halal products, which is called the Halal Product Guarantee Law, which was legalized in 2014. This law aims to provide consumers with protection, comfort, security, safety, and certainty in consuming and using halal products. This law requires the enactment of halal certification for all food and beverage products and service products. The guarantee of the halalness of a product is very important, especially for Muslim consumers, and becomes the protection of human rights that must be fulfilled.

Law Number 39 of 1999 concerning Human Rights states in Article 9 that every person has the right to live, defend life, and improve the standard of living. Every person has the right to live in peace and happiness, both physically and spiritually. Everyone has the right to a good and healthy living environment. Article 11 also states that everyone has the right to fulfill their basic needs in order to grow and develop properly. So, these rights must be obtained, as stated by Joel Feinberg in his theory that granting full rights is a unity of valid claims (benefits obtained from the fulfillment of the rights accompanied by the implementation of obligations). Thus, the benefits can be obtained from fulfilling

the rights when the implementation of obligations accompanies them. These two things cannot be separated in their realization [3].

2. Research Methods

The research method used in this research was qualitative research method. This research used a case and statutory approach. The case approach was used to see that many producers still had not registered their products yet with the halal certification label. As well as the statutory approach was used to see how laws and regulations could play a role in guaranteeing human rights in consuming food. This research used the theory of consumer protection and the accountability of business actors in carrying out business ethics in analyzing the purpose and the importance of guaranteeing halal certification for food and medicinal products from a human rights perspective.

3. Results and Discussion

Halal Certificate is a process of certifying a product or service provided in accordance with Sharia principles. In Indonesia, halal certification is a written fatwa issued by the Indonesian Ulema Council (MUI), which states the halalness of a product in accordance with Islamic law. The halal certification program in Indonesia has existed since 1994 through the Indonesian Ulema Council (LPPOM MUI) Assessment of Food, Medicine and Cosmetics which was established in 1989 [4]. The establishment of this institution is to protect the consumers, especially Muslim consumers, where previously there was a study which stated that many foods separated in the community contained pork fat.

Halal certification is the process of making a halal certificate (halal fatwa) on a food product that is made in writing and issued by the MUI as the party authorized to issue a fatwa in Indonesia [5]. In the Halal Product Guarantee Law No.33 of 2014, the halal certificate is an acknowledgment of the halalness of a product issued by the Halal Product Guarantee Agency based on a halal fatwa as a written fatwa issued by the Indonesian Ulema Council. The products mean the goods and services related to food, beverages, medicines, cosmetics, chemical products, biological products, genetic engineering products, and goods that are used or utilized by the public (Fig. 1) [6].

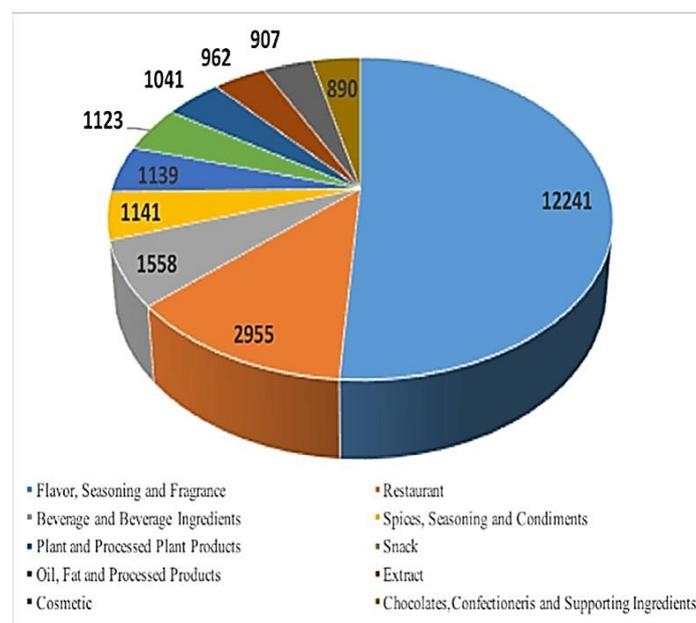


Figure 1. Top 10 Products with MUI Halal Certificate

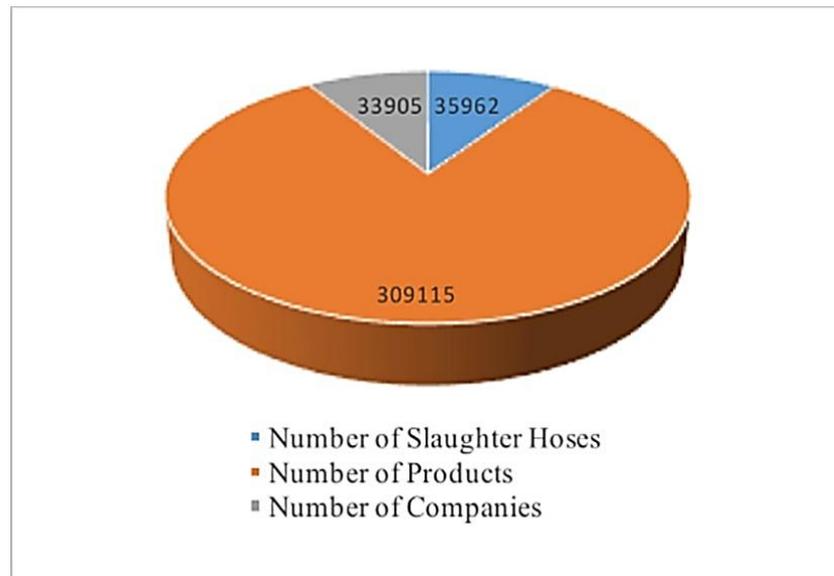


Figure 2. Implementation of MUI Certification

In Indonesia, during the year 2010 – 2015, MUI issued halal certificate as many as 309.115 halal certificates for product goods, more clearly will be seen in Figure 2 [6]. Halal guarantee for a product is part of the human rights inherent in an individual since he was born by nature which is given directly by God Almighty which cannot be taken away and deprived of its existence and must be respected, upheld, and protected by the State, law, government, and everyone for the honor and protection of human dignity.

This right is recognized in the understanding of world leaders at the WHO meeting on food safety. The state's ability to provide safe food for all people will not be separated from the joint commitment between the government, industry, and consumers, which is accompanied by the sharing of responsibilities of all parties. Socialization and understanding of policies as well as accompanying regulations, are needed by all actors in the food sector [7].

Therefore, halal is needed for consumers and producers by designing a system that is able to formulate the basis of halal food security for all people, especially for potential markets in Indonesia. This opportunity must be used to seize the market by certifying halal products and providing halal assurance for the products [8].

Food needs for Muslim consumers are ensured as a human right guaranteed by international law, the 1945 Constitution, the Human Rights Law, the Health Law, the Consumer Protection Law, the Food Law, the Halal Product Guarantee Law, and other regulations. The licensing obligation shows this consumer protection for circulating food issued by the Food and Drug Supervisory Agency (BPOM) and halal certification issued by the LPPOM-MUI. Halal certification has a significant positive effect on Muslim consumers buying interest which is associated with additional benefits for business actors [9].

Halal certificates have several functions, first, protecting Muslim consumers from consuming food and cosmetic medicines that are not halal; second, psychologically, the feelings of the heart and mind of the consumer will be calm; third, maintaining body and soul from adversity due to haram products; and fourth, it will provide legal certainty and protection [10]. For producers, halal certificates have an important role, first, as the producers' responsibility to Muslim consumers, considering that the halal issue is part of the principles of Muslim life; second, increase consumer trust and satisfaction; third, improve the image and competitiveness of the company and fourth as a marketing tool as well as to expand the area of the marketing network and fifth, provide benefits to the proceeds by increasing competitiveness and turnover of production and sales [10].

The definition of Halal Certification consists of two words. They are Certification and Halal. The certificate comes from the English word "certificate," which means deed or diploma while the word certification means the activity of deduction or the process of becoming a certificate [11]. The word "Halal" comes from Arabic, which means allowed. According to Ibnu Manzbur, halal comes from the word al-hillu which means not bound [12]. The word halal is closely related to halal and haram laws. Al-Qardhawi defines halal as something mubah or permissible that syar'i can do [13]. From the definition described by Al-Qardhawi according to Sopa, two elements are reflected, first, something that is immutable that is contained in a particle or 'ain [14]. Thus, substantially the object is immutable. Second, what is allowed by syar'i to be done? This is related to the actions of a person (mukallaf) who does. Therefore, the coverage, in this case, is very broad, including consuming food in an effort to meet the physical needs of mukallaf.

Consumer protection law in Islam refers to the concept of halal and haram and economic justice based on Islamic economic values or principles [15]. Islamic economic activities in consumer protection include the protection of substances, production processes, distribution, production objectives, and the consequences of consuming these products. Thus, in an Islamic economy, a product that is halal in terms of substance can become haram when the method of production and the purpose of consuming it violates the provisions of syaria [16].

As a country with a Muslim majority population, food security based on its religious teachings is highly desirable and is part of fulfilling human rights. The halalness of a food and medicinal product is a special obligation for every Muslim to consume it as stated in Al-Quran surah Al-Baqarah article 168 which means, "O all human beings, eat from halal and good food that is on earth, and don't you follow the steps of the devil. Surely Satan is a real enemy to you."

The word "O all human beings" is an invitation that is addressed not only to believers but to all mankind; this shows that Allah prepares the earth for all mankind to fulfill human needs. In its fulfillment, it is not only for halal food but also for good food [17]. Not everything on earth is automatically halal and good for food or use. Allah created poisonous snakes not to be eaten but to use their venom as medicine. There are birds that God created to eat insects that destroy crops. Thus, not all food on earth becomes halal because not everything becomes halal food. Not everything was created by God for human consumption, although all for the benefit of man. Therefore, Allah commands us to eat halal and good food. In order to realize the assurance of halal products, the state makes a number of legal rules regarding halal products. This arrangement is needed not only for the benefit of Muslim consumers in Indonesia but also for international trade because competition between business actors, both domestic and foreign, requires clear regulations.

The Halal Product Guarantee Law mandates the government to establish a Halal Product Guarantee Agency (BPJPH) under the auspices of the Ministry of Religion. BPJPH was formed in 2017 based on the Regulation of the Minister of Religion Number 42 of 2016 concerning the Organization and Work Procedure of the Ministry of Religion. This agency then opened a Halal Certification service. Many parties are involved in the halal certification process, including business actors, halal supervisors, LPH, halal auditors, MUI, related ministries, foreign halal institutions, and BPJPH as the main gateway.

The issuance of Law Number 33 of 2014 concerning Halal Product Guarantee (UUJPH) reinforces the need for consumer protection in the production chain from business actors to consumers, and consumer consumption is guaranteed halalness. Consumers get legal certainty for food products and other consumer goods. As for business actors, the presence of UUJPH provides guidance on how to process, produce and market the products to the consumer community and how to make information on halal products to consumers [18].

As described above, the halal certification function for consumers and producers has two main urgencies. They are (1) the moral aspect as a form of responsibility for producers to consumers, and (2) the business aspect as a means of marketing, increasing customer trust and satisfaction [19]. These targets will be achieved if we pay attention to the national halal product certification, the standardization of the certification process and its measuring instruments, the certification system, the regulatory principles for what purposes the certification must be carried out, and the certification institute,

equipment, technology, laboratories that meet the standards, and the validity period of the halal certificate. Certification must also cover raw materials, additives, and auxiliary materials in the form of "non-packaging," which are not retailed for food, beverage, pharmaceuticals, cosmetics, and other products circulating in the community [20].

The concept of halal is not only on the types of goods which are allowed to be eaten and which are not allowed, but also the production flow and distribution chain system must also be known. Therefore, the law on halal product guarantees comprehensively regulates business actors and their business products, which include goods/services in the form of food, beverages, medicines, cosmetics, chemical products, biological products, and genetically modified products, as well as consumer goods that are used or utilized by the public indicated by the halal label and certified by the halal product guarantee agency.

The Guarantee of Halal Certificate in Human Rights Perspective. So far, halal certification has only been carried out by producers voluntarily who feel that they need to put a label on their products, and there is no obligation from the government to producers to carry out certification. Various cases often occur, for example, the case of wild boar meat which is known as "Cow-boar" in 2000, the selling price of this meat was lower than beef, so it attracted buyers. In April 2009, BPOM found five brands of beef jerky and shredded beef that was positive for pork, such as Dendeng Cap Kepala Sapi 250 grams (unknown product), Shredded and Dendeng Sapi Cap Limas 100 gram (fictitious producer), Authentic Beef Jerky and Shredded with ACC Cap (unknown manufacturer), Special Beef Jerky Lezaaat (produced by MDC Food Surabaya) and Special Beef Jerky No. 1 Cap 999 produced by S. Hendropurnomo, Malang.

Many street foods or snacks still do not meet health standards because they contain dangerous chemical compounds [21]. These dangerous substances can be in the form of formaldehyde, borax, textile dyes, such as rhodamine and yellow mehanyl, illegal drugs, and addictive substances. These substances are still available in the market and can be easily obtained. This makes producers want to add these ingredients to their products. The effects of this product are not only harmful to the human body physically but also mentally.

Seeing the above case makes Muslim consumers more aware of the halalness of a product. Several surveys conducted by Frontier, for example, show that 82.6% of Muslim consumers want the inclusion of halal labels on food products so that the consumers can distinguish between products that are clearly halal and products that have not been certified halal. Research from the Research and Development and Training Agency of the Ministry of Religion of the Republic of Indonesia states that MUI halal certification is an important indicator of declaring the halalness of food products. Furthermore, as many as 95% of respondents want all products in circulation to be guaranteed halal and support the halal labeling of packaged food and beverage products, including restaurants.

Based on this, the government seeks to make various regulations to provide guarantees and legal certainty to the community, especially to provide protection for Muslim people. Several laws and regulations protecting consumers from non-halal products prior to the enactment of Law Number 33 of 2014 concerning the Guarantee of Halal Products include Law Number 18 of 2012 concerning Food, Law Number 36 of 2009 concerning Health, Law Number 18 of 1999 concerning Consumer Protection, Government Regulation No. 69 of 1999 concerning Food Labels and Advertisements, Presidential Instruction of 1991 on Increasing Development and Supervision of Processed Food Production and Distribution, Joint Decree of the Minister of Health and the Minister of Religion of the Republic of Indonesia Number 427 / Menkes / SKB / VIII / 1985 Number 68 of 1985 concerning Inclusion of the Writing "Halal" on Food Labels. Decree of the Minister of Health of the Republic of Indonesia Number: 82 / MENKES / SK / I / 1996 concerning the inclusion of the words "Halal on Food Labels, as amended by Decree of the Minister of Health of the Republic of Indonesia Number: 924 / MENKES / SK / VIII / 1996 concerning Amendments to the Republic of Indonesia's Minister of Health Decree Number 82 / Menkes / SK / 1996. c. Joint Decree (SKB) of the Minister of Religion and the Minister of Health Number 472 / MENKES / SKB / VIII / 1985 and Number 68/1985 regarding the regulation of "halal"

writing on food labels. And other regulations, either directly or indirectly, regulate halal product issues [18].

This regulation strives to provide assurance and protection for Muslim consumers in obtaining safe and halal food in accordance with their religious orders. The need for halal food is also recognized as a human right, so it must be guaranteed and protected by all parties responsibly. So, getting halal food in the market for muslims is automatically one of the human rights that must be protected as well. In this case, clear information about the ingredients presented on the halal packaging label is an application of this human right to protect the public in choosing products that are guaranteed to be halal as well as human rights in practicing their religion.

In the Universal Declaration of Human Rights of 1948, the right to adequate food is clearly stated in Article 25 paragraph 1 that: a person has the basic right to a standard of living for the health of himself and his family, including food, clothing, housing and medical care and social services required. This is re-spelled out in the International Covenant on Economic, Social and Cultural Rights which has been ratified by Indonesia with Law Number 11 of 2005 concerning Ratification of the International Covenant on Economic, Social and Cultural Rights. Article 11 states that the states parties in this covenant recognize the right of everyone to an adequate standard of living for himself and his family, including sufficient food, clothing and housing and the continuous improvement of living conditions. And also in article 12 regulates the right to health as the States Parties to this agreement recognize the right of every person to enjoy the highest attainable standard for physical and spiritual health. Therefore, the government is responsible for guaranteeing Indonesian citizens and committed to fulfill, to protect and to respect human rights, which rights are in accordance with the Universal Declaration of Human Rights (DUHAM) and various Other international human rights instruments that have been ratified by Indonesia, such as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

In Law Number 33 of 2014 concerning Halal Product Guarantee, it is explicitly obliged to have a halal label on each product because it is part of the fulfillment of Human Rights to obtain halal information and obtain legal assurance and certainty of the halalness of a product that is proven through the halal certification process. In the phrase considering Point "b" it is very clearly stated that in order to guarantee every religious adherent to worship and carry out his religious teachings, the state is obliged to provide protection and guarantee regarding the halalness of products that are consumed and used by the community.

This law aimed to prioritize on business actors as parties that carry out business activities, both individuals and business entities that produce a product. The State is the party responsible for carrying out the halal certification process through the Halal Product Guarantee Agency. Products that are guaranteed to be halal are not only the type of product but include the provision of materials, processing, storage, packaging, distribution, sales, and product presentation.

Business actors must be responsible for respecting their human rights. It means that in their efforts, they must not violate the human rights of others. As stated in the Preamble to the Universal Declaration of Human Rights (DUHAM), every person and organization in society must endeavor through teaching and education to promote respect for these rights. Referring to Abdul Hakim Garuda Nusantara's opinion regarding the company's obligations towards human rights based on the UN Norms on the Responsibility of TNCs and Other Business Enterprises with Regard to Human Rights divides into 4 areas of human rights that must be respected by the business world [22]. They are:

- a. Business entities must ensure equal opportunity and treatment in order to eliminate discrimination on the basis of gender, race, religion, and other categories.
- b. Business entities may not be directly involved in or benefit from war crimes, crimes against humanity, genocide, torture, enforced disappearance or forced labor, and other violations of the person's security rights.
- c. The business entity must recognize bargaining rights collectively
- d. The obligations of business entities related to consumer protection and environmental protection

Based on the explanation above, the obligation of business entities in protecting the consumers is also to provide guarantees of halalness in food and medicinal products as described in Law NO. 33 regarding Halal Product Guarantee. In order to guarantee the halal products of business actors, the state is obliged to provide public policies that guarantee the fulfillment of human rights. In the framework of fulfilling the State's obligations to business actors regarding halal products, business actors have the right to:

- a. Obtain information, education and socialization regarding the Halal Product Guarantee system,
- b. Obtain guidance in producing halal products, and
- c. Obtain services to obtain Halal certificates fast, efficiently, affordable, and non-discriminatory.

After the rights have been obtained, the business actor is obliged and responsible as regulated in Law Number 33 of 2014 Article 25, which states, "Business Actors who have obtained a Halal Certificate are obliged to:

- a. Include Halal Label on products that have received Halal Certificates;
- b. Maintain the halalness of Products that have obtained a Halal Certificate;
- c. Separating the location, place and slaughter, processing equipment, storage, packaging, distribution, sale, and presentation of Halal and non-halal products;
- d. Renew the Halal Certificate when the Halal Certificate validity period ends; and
- e. Report changes in the composition of ingredients to BPJPH. "

The producer's responsibility regarding the halalness of its product consists of 2 (two) processes. *First*, the process relating to the application, and *Second*, the process regarding the existence of a Halal Certificate. In the application process, several requirements and tests must be fulfilled. Then the next process is when the Halal Certificate of a product has been issued, the responsibility of the producer or business actor to maintain the halalness of the product is required.

Meanwhile, related to the determination of the halalness of a product is regulated in Article 33, where the determination of halal fatwa of the product must go through the MUI Halal Fatwa assembly, which consists of experts, elements of the ministry or institution and or related agencies and the results of the decisions are submitted to the Halal Product Guarantee Agency. Based on these rights, the state must provide available resources to ensure that consumers and producers can fulfill human rights as business entities. And this State obligation is stated in the 1945 Constitution that the State has the obligation to respect, protect and fulfill human rights.

4. Conclusions

Business actors are responsible for being able to certify the food, medicine, and cosmetic products as part of a form of guarantee and protection for consumers, especially for Muslim consumers, that in the production chain from business actors to consumers and consumed by consumers, their halalness is guaranteed as has been implemented in Halal Product Guarantee Law. In the concept of Human Rights, the guarantee of a halal certificate is part of the right to health for oneself and their family, as stated in the DUHAM. Therefore, the government is responsible for guaranteeing Indonesian citizens and is committed to fulfilling, protecting, and respecting human rights, which rights are in accordance with the Universal Declaration of Human Rights (DUHAM) and other international human rights instruments that have been ratified by Indonesia, such as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

5. References

- [1] A. R. Ambali and A. N. Bakar, "Halal Food and Products in Malaysia: People's Awareness and Policy Implications," *Intellect. Discourse*, vol. 21, no. 1, 2013.
- [2] M. I. Khan and A. Haleem, "Understanding 'Halal' and 'Halal Certification & Accreditation System' –A Brief Review," *Saudi J. Bus. Manag. Stud.*, vol. 1, no. 1, 2016.
- [3] Nickel, J. W, and T. E. Arini, *Hak asasi manusia, refleksi filosofi alas deklarasi universal*

- HAM. Jakarta gramedia Pustaka utama, 1996.
- [4] Mardani, *Hukum Islam dalam Hukum Positif di Indonesia*. Depok: Rajawali Press, 2018.
- [5] Syafrida, "Sertifikat Halal Pada Produk Makanan Dan Minuman Memberi Perlindungan Dan Kepastian Hukum Hak-Hak Konsumen Muslim," *Adil J. Huk.*, vol. 7, no. 2, 2016.
- [6] P. Sulistyarningsih, C. B. E. Praja, Heniyatun, and Y. Kurniaty, "Halal Certification Obligations in 2019: Is It Possible to be Applied in Indonesia?," *J. Law, Policy Glob.*, vol. 82, Feb. 2019, doi: 10.7176/JLPG/82-06.
- [7] C. H. Wijaya, A. Kristanto, F. Indriastanti, and Ariebowo, "Standarisasi dan Legislasi Pangan," in *Ruang Lingkup Pengaturan Pangan dan Kegunaannya*, 1st ed., Tangerang Selatan: Univerversitas Terbuka, 2011, pp. 1–27.
- [8] M. Nusran, Gunawan, M. Razak, S. Numba, and I. S. Wekke, "Halal Awareness on the Socialization of Halal Certification," *IOP Conf. Ser. Earth Environ. Sci.*, 2011, doi: 10.1088/1755-1315/175/1/012217.
- [9] F. Wiryani, M. Najih, and A. Haris, "An analysis of legal protection of halal and thoyib food consumers in court judgments," *IOP Conf. Ser. Earth Environ. Sci.*, 2018.
- [10] M. I. E. A. Pelu, *Label Halal: Antara Spiritualitas Bisnis Dan Komoditas Agama*. Malang: Madani, 2009.
- [11] *Kamus besar Bahasa Indonesia*, 1st ed. Jakarta: Balai Pustaka, 1998.
- [12] I. Mannzhur, *Lisan al'Arab*. Daar al Fikri, 1990.
- [13] Y. Al-Qardhawi, *Al Halal wal haram fi al islami Yusuf Al Qardhawi*. Dar al-Ma'rifah, 1985.
- [14] Sopa, *Landasan Hukum Sertifikasi Halal Majelis Ulama Indonesia*. Jakarta: Majelis Ulama Indonesia, 2011.
- [15] Muhammad and Alimin, *Etika dan Perlindungan Konsumen dalam Ekonomi Islam*, Yogyakarta. BPFE, 2004.
- [16] A. S. Zamakhsyari and J. bin A. Al-Haritsi, *Fikih ekonomi Umar bin al-Khathab*. Khalifah, 2006.
- [17] M. Q. Shihab, *Tafsir al-Misbah*, 1st ed. Jakarta: Lentera Hati, 2009.
- [18] M. L. Charity, "Jaminan Produk Halal di Indonesia," *J. Legis. Indones.*, vol. 14, no. 1, 2017.
- [19] Ramlan and Nahrowi, "Sertifikasi Halal Sebagai Penerapan Etika Bisnis Islami Dalam Upaya Perlindungan Bagi Konsumen Muslim," *J. Ahkam*, vol. 14, no. 1, 2014.
- [20] N. W. Sayekti, "Jaminan Produk Halal dalam Perspektif Kelembagaan," *J. Ekon. dan Kebijak. Publik*, vol. 5, no. 2, pp. 193–209, 2014.
- [21] A. Dakhoir, "Integrated Control Management on halal Thoyyib of Food towards Street Food in Indonesia (Prosiding)," *Int. J. Manag. Adm. Sci.*, vol. 6, no. 2, pp. 20–27, 2017.
- [22] A. Ahsinin, A. Muttaqien, M. B. Fuad, and R. D. Nafisah, *Perkembangan Bisnis dan HAM di Indonesia, Persepsi Negara, Masyarakat Sipil dan Korporasi*. Jakarta: Elsam, 2019.